

REMARKS

Objections to the drawings

The drawings are objected to as failing to comply with 37 CFR 1.83(a) because they fail to show the GUI, Internet and Browser of column 6, lines 21-27. The Examiner cites to MPEP §608.02(d) for the proposition that any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. The Examiner misreads the MPEP section, and for the Examiner's convenience we reproduce the relevant portion below:

The drawing in a nonprovisional application must show every feature of the invention specified in the claims. However, conventional features disclosed in the description and claims, where their detailed illustration is not essential for a proper understanding of the invention, should be illustrated in the drawing in the form of a graphical drawing symbol or a labeled representation (e.g., a labeled rectangular box).

As emphasized in the above excerpt, it is every feature of the claimed invention, not of the disclosed invention, that must be shown in the drawing. Because there is no mention of either a GUI, the Internet, or a Browser in any of the claims, Applicant submits that this objection is in error and respectfully requests the Examiner to withdraw it.

The Examiner further objects to Figure 3 because number 52 is referred to as a "graphical image" in the specification but is shown as an "AV work" in the drawing. Applicant has amended the specification to comport it to the terminology of Fig. 3 (as well as Fig. 5), and submits that this objection is now moot.

Rejection under 35 U.S.C §101

Claim 15 stands rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter. Applicant respectfully traverses this rejection.

In a teleconference between Applicant's representative and Mr. Andrew Caldwell of the Patent Office (the Examiner's Supervisor), Mr. Caldwell stated that this rejection was issued in view of the printed matter doctrine, expressing concern that the recitation in the claim of a "data carrier" was sufficiently broad to run afoul of the doctrine. Applicant respectfully directs the Examiner's attention to page 5, lines 16-17 of the specification, wherein it is clearly stated that the data carrier contemplated by the invention comprises "a computer program arranged to configure a computer to implement a method as described above" and therefore is clearly not intended to encompass any printed matter as no printed matter could possible configure a computer to implement a method. Applicant thus invites the Examiner to re-examine claim 15 in view of the language of the specification and the In re Beauregard decision, and respectfully requests the Examiner to withdraw this rejection.

Rejection under 35 U.S.C §103

Claims 1, 2, 4, 5, 10, 11 and 13-16 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 6,285,774 to Schumann et al. and U.S. Pat. No. 5,763,316 to Auerbach et al. In particular, the Examiner finds that Schumann discloses all limitations of claims 1, 11, 15 and 16, with the exception of receipt of a request for the data file. The Examiner further finds that Auerbach discloses a request for a data file that contains a watermark, and opines that it would have been obvious to the skilled person to use the request for a data file with a watermark of Auerbach with the method of applying a digital watermark of Schumann. Applicant respectfully disagrees with the Examiner's characterization of these two references and opinion regarding the obviousness of combining the reference.

In particular, claim 1 recites creating a pre-calculated set of elementary watermarks and a plurality of sections of the data file. This is not disclosed anywhere in Schumann nor Auerbach. However, in the interest of making the scope of the claim clearer and better defining the differences between the cited art and the claimed invention, Applicant has amended claim 1 herein to more completely recite creating a pre-calculated set of elementary watermarks by incorporating the limitations of claim 6, which has been canceled. Applicant thus submits that neither Schumann nor Auerbach disclose or render obvious creating a pre-calculated set of

elementary watermarks and a plurality of sections of the data file by creating multiple copies of each section of the plurality of sections of the data file, applying to each set of multiple copies a set of elementary watermarks such that each copy of a section contains a different elementary watermark, and storing the elementary watermark containing copies of each section, as recited by amended claim 1. Applicant thus respectfully submits that amended claim 1 is novel and patentable over the cited art, and requests the Examiner to allow this claim.

Claims 2-5 and 7-10 depend from claim 1. "If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious." *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). Therefore, in light of the above discussion of claim 1, Applicant submits that claims 2-5 and 7-10 are also allowable.

With regards to claim 11, Applicant has similarly amended the claim to clarify the differences between the cited art and the claimed invention by incorporating the limitations of claim 12 into claim 11, and canceling claim 12. Applicant thus respectfully submits that amended claim 11 is novel and patentable over the cited art, and requests the Examiner to allow this claim.

Claims 13-14 depend from claim 11, and Applicant thus submits that these claims are also allowable by virtue of their dependency on claim 11.

Claims 15 and 16 have been amended in a manner similar to claim 1, and Applicant thus submits that these claims are allowable for the same reasons as set forth above with respect to claim 1.

Applicant further presents new claim 17, which is directed to originally disclosed subject matter. No new matter has been added by this new claim. Please charge the excess claims fee due to deposit account no. 08-2025.

Applicant acknowledges with gratitude the Examiner's indication of allowability as to claims 6-9 and 12. The limitations of claim 6 have been incorporated into claims 1, 15, and 16, and the limitations of claim 12 have been incorporated into claim 11.

Regarding the prior art made of record by the Examiner but not relied upon, Applicant believes that this art does not render the pending claims unpatentable.

In view of the above, Applicant submits that the application is now in condition for allowance and respectfully urge the Examiner to pass this case to issue.

The Commissioner is authorized to charge any additional fees which may be required or credit overpayment to deposit account no. 08-2025. In particular, if this response is not timely filed, the Commissioner is authorized to treat this response as including a petition to extend the time period pursuant to 37 CFR 1.136(a) requesting an extension of time of the number of months necessary to make this response timely filed and the petition fee due in connection therewith may be charged to deposit account no. 08-2025.

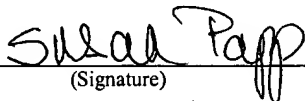
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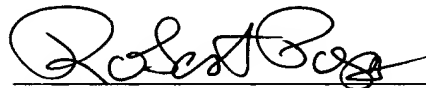


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Respectfully submitted,



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